IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10399 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 to 5 NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

KALUBHAI LAXMANBHAI GARASIA

Appearance:

1. Special Civil Application No. 10399 of 1994

MR SK BUKHARI for Petitioner No. 1

MR VIJAY RAWAL for MR JS BRAHMBHATT for Resp. No. 1

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 16/07/2004

ORAL JUDGEMENT

1. This petition under Article 227 of the Constitution challenges the award of the Labour Court,

Nadiad in Reference (LCN) No.467 of 1988 whereby the respondent was ordered to be reinstated with 50% backwages.

2. It was submitted by the learned counsel for the petitioner that the respondent was dismissed from service on account of absenteeism, whereas it was pointed out on behalf of the respondent that he was suffering from sickness and mental tension due to which he could not send in applications for leave to remain absent. The Labour Court, in exercise of its discretion, set aside the order of dismissal and awarded reinstatement with 50% backwages, which is on the higher side, according to the learned counsel.

3. Learned counsel Mr.Vijay Rawal, appearing for the respondent, submitted that the petition is pending since 1994 and implementation of the award was not stayed as far as reinstatement was concerned and, therefore, the controversy is restricted to the per cent of backwages to be paid to the respondent. He submitted that the respondent would be satisfied even if the backwages were reduced to 30% provided the same are ordered to be paid within a reasonable time. The learned counsel for the petitioner agreed to the proposal. Accordingly, the petition is partly allowed and the impugned award is modified to the extent that the backwages payable to the respondent shall stand reduced to 30%, which amount shall be paid to the respondent within a period of six weeks from today, as stated by the learned counsel for the petitioner. Rule is made absolute accordingly with no order as to costs.

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)